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and Newegg North America Inc.

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

ASETEK DANMARK A/S,	)	Case No. 3:16-cv-07068-JST
	)	
Plaintiff,	)	
v.	)	<b>DEFENDANTS NEWEGG INC. AND</b>
	)	<b>NEWEGG NORTH AMERICA INC.'S</b>
NEWEGG INC., NEWEGG NORTH	)	<b>ANSWER</b>
AMERICA INC.	)	
	)	
Defendants	)	<b><u>JURY TRIAL DEMANDED</u></b>
	)	

Defendants Newegg Inc. and Newegg North America Inc. (together “Newegg”) answer the individually numbered paragraphs of the Complaint of Asetek Danmark A/S (“Asetek”) and assert Affirmative Defenses and Counterclaims as follows. All averments are denied unless specifically admitted herein.

1. Newegg admits that the Complaint purports to set forth a claim of patent infringement. No further response is believed to be necessary for this paragraph.

2. Newegg admits that the Complaint purports to set forth a claim of patent infringement. No further response is believed to be necessary for this paragraph.

1           3.     Newegg is without sufficient information to either admit or deny the averments of  
2 this paragraph of the Complaint, and on this basis denies said averments.

3           4.     Newegg is without sufficient information to either admit or deny the averments of  
4 this paragraph of the Complaint, and on this basis denies said averments.

5           5.     Admitted.

6           6.     Admitted.

7           7.     Newegg admits that the Complaint purports to set forth a claim of patent  
8 infringement. Newegg admits that this Court has subject matter jurisdiction.

9           8.     Newegg denies that it has committed acts of infringement in this or any other  
10 district. The remaining averments of this paragraph of the Complaint are admitted.

11           9.     Admitted.

12           10.    Newegg is without sufficient information to either admit or deny the averments of  
13 this paragraph of the Complaint, and on this basis denies said averments.

14           11.    Newegg is without sufficient information to either admit or deny the averments of  
15 this paragraph of the Complaint, and on this basis denies said averments.

16           12.    Newegg is without sufficient information to either admit or deny the averments of  
17 this paragraph of the Complaint, and on this basis denies said averments.

18           13.    Newegg is without sufficient information to either admit or deny the averments of  
19 this paragraph of the Complaint, and on this basis denies said averments.

20           14.    Newegg is without sufficient information to either admit or deny the averments of  
21 this paragraph of the Complaint, and on this basis denies said averments.

22           15.    Newegg is without sufficient information to either admit or deny the averments of  
23 this paragraph of the Complaint, and on this basis denies said averments.

1           16. Newegg is without sufficient information to either admit or deny the averments of  
2 this paragraph of the Complaint, and on this basis denies said averments.

3           17. Newegg admits only that the letter attached as Exhibit D to the Complaint has  
4 been accurately quoted. Newegg denies the remaining averments of the paragraph of the  
5 Complaint as the letter attached as Exhibit D to the Complaint is incorrectly addressed and  
6 Newegg has no record of receiving such letter.

7  
8           18. Newegg admits only that the letter attached as Exhibit E to the Complaint has  
9 been accurately quoted. Newegg denies the remaining averments of the paragraph of the  
10 Complaint as the letter attached as Exhibit E to the Complaint is incorrectly addressed and  
11 Newegg has no record of receiving such letter.

12  
13           19. Newegg admits that it did not respond to the letters that it has no record of  
14 receiving. Newegg denies that the products at issue are currently available for purchase on  
15 www.newegg.com.

16  
17           20. Denied.

18           21. Newegg is without sufficient information to either admit or deny the averments of  
19 this paragraph of the Complaint, and on this basis denies said averments.

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21           22. Newegg incorporates by reference its responses to paragraphs 1 – 21 of the  
22 Complaint as if set fully herein.

23           23. Newegg admits that the '362 patent issued on August 14, 2012 and that the title  
24 has been accurately recited. Newegg is without sufficient information to either admit or deny the  
25 remaining averments of this paragraph of the Complaint, and on this basis denies said averments.

1           24. Newegg denies that it currently imports, offers to sell, and sells products that  
2 infringe the '362 patent. Newegg is without sufficient information to either admit or deny the  
3 remaining averments of this paragraph of the Complaint, and on this basis denies said averments.

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5           25. Newegg is without sufficient information to either admit or deny the averments of  
6 this paragraph of the Complaint, and on this basis denies said averments.

7           26. Newegg is without sufficient information to either admit or deny the averments of  
8 this paragraph of the Complaint, and on this basis denies said averments.

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10          27. Denied.

11          28. Denied.

12          29. Denied.

13          30. Newegg incorporates by reference its responses to paragraphs 1 – 29 of the  
14 Complaint as if set fully herein.

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16          31. Newegg admits that the '764 patent issued on August 21, 2012 and that the title  
17 has been accurately recited. Newegg is without sufficient information to either admit or deny the  
18 remaining averments of this paragraph of the Complaint, and on this basis denies said averments.

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20          32. Newegg denies that it currently imports, offers to sell, and sells products that  
21 infringe the '764 patent. Newegg is without sufficient information to either admit or deny the  
22 remaining averments of this paragraph of the Complaint, and on this basis denies said averments.

23          33. Newegg is without sufficient information to either admit or deny the averments of  
24 this paragraph of the Complaint, and on this basis denies said averments.

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26          34. Newegg is without sufficient information to either admit or deny the averments of  
27 this paragraph of the Complaint, and on this basis denies said averments.

28          35. Denied.

36. Denied.

37. Denied.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

38. The Complaint, and each and every purported claim for relief therein, fails to allege facts sufficient to state a claim against Newegg.

**SECOND AFFIRMATIVE DEFENSE**

**(Invalidity)**

39. U.S. Patent Nos. 8,240,362 and 8,245,764 and all of the claims thereof are invalid for failure to comply with one or more of the requirements for patentability, including those set forth in the Patent Act, 35 U.S.C. §§ 1 *et seq.*, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, and/or 112.

**THIRD AFFIRMATIVE DEFENSE**

**(Prohibition on Double Recovery)**

40. Asetek's monetary claims against Newegg are barred with respect to any products for which Asetek has already recovered damages from a third-party, including but not limited to Cooler Master Co., Ltd., Cooler Master USA, Inc. and/or CMI.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Defendant Newegg Inc. demands a trial by jury of this action.

**PRAYER FOR RELIEF**

WHEREFORE, Newegg prays for the following relief:

- A. Dismissal of the Complaint herein;
- B. Entry of judgment declaring it does not infringe and has not infringed, in any way, any claim of United States Patent Nos. 8,240,362 and 8,245,764;
- C. Entry of judgment declaring that the asserted claims of United States Patent Nos. 8,240,362 and 8,245,764 are invalid;
- D. Awarding Newegg its costs and attorneys' fees incurred in prosecuting this action;
- E. This case be declared exceptional pursuant to 35 U.S.C. § 285 and attorneys' fees be awarded to Newegg;
- F. That no damages, injunctive relief, costs, expenses, or attorneys' fees be awarded to Plaintiff; and
- G. Awarding Newegg such other and further relief as this Court deems just and proper.

Respectfully submitted,

LITIGATION LAW GROUP

Date: February 9, 2017

By: /s/ Gordon M. Fauth, Jr.

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11 Newegg North America Inc.  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served on all counsel for all parties of record on February 9, 2017 via the Court's CM/ECF system.

/s/ Gordon M. Fauth, Jr.